

FRED GOODSTEIN

IBLA 77-138

Decided August 31, 1977

Appeal from a decision of Wyoming State Office, Bureau of Land Management requesting additional rental prior to the issuance of noncompetitive oil and gas lease, W-57811.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Noncompetitive Leases--Oil and Gas Leases: Rentals--Regulations: Applicability

Where the Department, through a duly promulgated regulation, has increased the rental rate on all noncompetitive oil and gas leases issued after a specified date, such increased rate is applicable to all leases issued subsequent to that date, including leases issued pursuant to the simultaneous filing procedures, even though the lease offers were drawn with first priority prior to the effective date of the increase.

APPEARANCES: Fred Goodstein, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Fred Goodstein has appealed from a decision dated January 18, 1977, of the Wyoming State Office, Bureau of Land Management, requiring him to submit additional rental of \$240 prior to the issuance of oil and gas lease W-57811 so as to comply with the requirement of rental at \$1 per acre imposed by 43 CFR 3103.3-2, effective February 1, 1977, 43 FR 1032.

Appellant's offer was drawn first for parcel Wy 173 in the November 1976 simultaneous filing procedures. In response to a notice of rental due from the State Office dated December 20, 1976, he paid \$240 at the rate of 50 cents per acre. He also paid the additional rental demanded by the January 18, 1977, decision, but under protest.

At the time appellant filed his drawing entry card and at the time he paid the rental first demanded of him, the rental was fixed at 50 cents per acre. On January 5, 1977, the regulation, supra, was changed to increase the rental to \$1 per acre on all noncompetitive leases issued on or after February 1, 1977. Since appellant's lease could not be issued prior to that date, the State Office required him to pay the additional rental.

Appellant contends there was time to issue him a lease prior to January 5, 1977, that he complied with all the regulations in effect when he paid the first \$240, that it was not the intent of the change in regulation to be retroactive.

[1] The precise issue raised in these appeals has been fully considered by this Board in several recent cases, Karen Cutler, 30 IBLA 88 (1977); Milton J. Lebsack, 29 IBLA 317 (1977); Raymond N. Joeckel, 29 IBLA 170 (1977). These three decisions held that the increased rental must be paid on a lease issued on or after February 1, 1977. For the reasons stated therein, the appellants were properly required to pay the annual rental of \$1 per acre.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from is affirmed.

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Martin Ritvo  
Administrative Judge

We concur:

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Newton Frishberg  
Chief Administrative Judge

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Frederick Fishman  
Administrative Judge

